

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

v.

RAFAEL IRIZARRY,

Defendant.

**DECISION AND ORDER**  
07-CR-291S

1. On September 26, 2008, the Defendant entered into a written plea agreement (Docket No. 316) and pled guilty to Count 26 of the Indictment (Docket No. 188) charging a violation of Title 21, U.S.C. Section 843(b) (use of a communication facility to commit a drug trafficking crime),

2. On September 26, 2008, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report and Recommendation (Docket No. 318) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge Schroeder's September 26, 2008, Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Schroeder's Report and Recommendation, and will accept Judge Schroeder's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's September 26, 2008 Report and Recommendation (Docket No. 318) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Rafael Irizarry is accepted, and he is now adjudged guilty of Title 21, U.S.C. Section 843(b).

SO ORDERED.

Dated: October 27, 2008  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge